

Order

Michigan Supreme Court
Lansing, Michigan

September 10, 2007

Clifford W. Taylor,
Chief Justice

133065 & (16)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 133065
COA: 274182
Calhoun CC: 05-001959-FC

MICHAEL A. AMOS,
Defendant-Appellant.

By order of June 20, 2007, the prosecuting attorney was directed to answer the application for leave to appeal the December 14, 2006 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the judgment of sentence and REMAND this case to the Calhoun Circuit Court for the resentencing of the defendant on all of his criminal sexual conduct convictions. The circuit court erred by assessing the defendant 50 points under Offense Variable 11 for penetrations that did not arise out of the particular sentencing offenses. *People v Johnson*, 474 Mich 96 (2006). If the defendant is scored points for OV 11, the trial court must indicate that the acts of sexual penetration “arose out of” the sentencing offenses. MCL 777.41(2)(a). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.



p0830

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 10, 2007

Clerk